

HOUSE No. 236

By Mr. Greene of Billerica, petition of William G. Greene, Jr., relative to the management of the Middlesex regional retirement system. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATING TO THE MANAGEMENT OF THE MIDDLESEX REGIONAL RETIREMENT SYSTEM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The terms of the members currently serving on
2 the Middlesex Regional Retirement Board shall end six months
3 from the date of passage of this act. The regional retirement board
4 advisory council shall choose the first, second and third members;
5 and shall organize an election for the fourth, fifth and sixth mem-
6 bers, all in accordance with chapter 34B of the general laws as
7 herein amended. The first selection of the first, second, third,
8 fourth, fifth and sixth members shall be chosen such that their
9 respective terms shall begin on the same day and shall end on
10 December 31 of the year in which their term is scheduled to end.
11 The term of the current fifth member shall also end six months
12 from the date of passage of this act and the public employees'
13 retirement administration commission shall then appoint a seventh
14 member for a term of one year. Once the term of the seventh
15 member expires, his successors shall be chosen in accordance
16 with the provisions of chapter 34B of the general laws as herein
17 amended.

1 SECTION 2. The public employees' retirement administration
2 commission shall appoint an interim executive director immedi-
3 ately upon passage of this act. The interim executive director shall
4 serve a term of one year and shall have all of the duties and

5 responsibilities of the executive director of the Middlesex Retirement
6 System in accordance with chapter 34B of the general laws
7 as herein amended.

1 SECTION 3. Chapter 34B of the General Laws is hereby
2 amended by adding the following section:—

3 Section 19A. Notwithstanding the provisions of section 19 of
4 chapter 34B of the general laws, chapter 32 of the general laws, or
5 any other general or special law to the contrary, the retirement
6 system of Middlesex County, an abolished county, shall continue
7 pursuant to this section and shall be managed by the retirement
8 board as provided in this section, but any provisions of chapter 32
9 of the general laws that apply to county retirement systems and
10 are not inconsistent with the provisions of this chapter shall apply
11 to the Middlesex Regional Retirement System.

12 (a) The contributory retirement system established for Middlesex
13 County, an abolished county, operating under the terms of
14 sections 1 to 28, inclusive, of said chapter 32 shall be known as
15 the Middlesex Regional Retirement System, and all business shall
16 be transacted under this name.

17 (b) Said system shall be managed by a retirement board, which
18 shall have the general powers and duties set forth in subdivision
19 (5) of section 20 of chapter 32. Said board shall consist of
20 seven members as follows:

21 (1) The first, second and third members shall be members of
22 the regional retirement board advisory council, and shall be
23 elected by a majority of those present and voting at a public
24 meeting of said council, properly posted, called specifically for
25 such election pursuant to paragraph (g), for successive three-year
26 terms, which shall be organized such that ultimately one member
27 is elected every year for a three year term.

28 (2) The fourth, fifth and sixth members, hereinafter referred to
29 as the elected members, shall be active or retired members of the
30 regional retirement system or one whose retirement is being reimbursed
31 by that system in accordance with the provision of paragraph (c) of
32 subdivision (8) of section 3 of chapter 32. The elected
33 members shall be chosen for successive three year terms, which
34 shall be organized such that ultimately one member is elected
35 every year for a three year term. The elected members shall be
36 chosen in accordance with paragraphs (g) and (i).

37 (3) A seventh member, who shall not, except as provided in this
38 subparagraph, be an employee, retiree or official of the retirement
39 system, or of any of its constituent governmental units, shall be
40 chosen by the other six members and serve for a term of five
41 years. If the successor to the seventh member is not chosen as pro-
42 vided in this subparagraph within 30 days of the expiration of his
43 term, or of any earlier vacancy in his office, the public employee
44 retirement administration commission shall appoint the seventh
45 member.

46 (4) Upon the expiration of the term of office of any elected or
47 appointed member, or in the event of a vacancy in either of said
48 offices, his successor shall be elected or appointed as aforesaid for
49 a term of three years, or for the unexpired portion thereof, as the
50 case may be.

51 (c) The members of the regional retirement board shall be com-
52 pensated in an amount to be determined by the board, subject to
53 the approval of the advisory council, but not to exceed the
54 amounts set forth in subdivision (6) of section 20 of chapter 32.
55 The regional retirement board shall choose one of its members to
56 serve as chairman of the retirement board for terms of one year.

57 (1) Executive Director. The regional retirement board shall
58 appoint an individual qualified by education and years of experi-
59 ence who is not a member of the regional retirement board or the
60 advisory council to serve as the executive director of the regional
61 retirement system.

62 The executive director shall supervise and manage the day to
63 day operations of the regional retirement system. The executive
64 director shall appoint, with the approval of the regional retirement
65 board, two qualified individuals, one to serve as treasurer-custo-
66 dian, and the other to serve as comptroller of the regional retire-
67 ment system. This paragraph shall not be interpreted to mean that
68 the Executive Director may at any time appoint himself to either
69 the position of Treasurer-Custodian or Comptroller; and in no case
70 may the same person serve as both Treasurer-Custodian and
71 Comptroller.

72 (2) Treasurer-Custodian. The treasurer-custodian shall post
73 bond in an amount to be determined by the regional retirement
74 board, which shall guarantee the faithful performance of his
75 duties. The treasurer-custodian shall be responsible for the general

76 duties of a treasurer-custodian of a public employee retirement
77 system as may be provided in the general laws where they are not
78 inconsistent with this section. The treasurer-custodian shall also
79 receive and maintain custody of all funds belonging to the
80 regional retirement system and shall pay out all lawfully approved
81 retirement benefits and expenses of the retirement system in
82 accordance with expenditure warrants duly executed by the comp-
83 troller and the retirement board. The treasurer-custodian shall,
84 under the direction of the regional retirement board, invest the
85 funds of the retirement system in prudent investments that are not
86 inconsistent with any other provision of the general laws with
87 respect to the investment of the funds of public employee retire-
88 ment systems.

89 (3) Comptroller. The comptroller of the regional retirement
90 system shall provide for an annual financial audit of the funds of
91 the regional retirement system and shall produce all the official
92 financial statements of the retirement system as may otherwise be
93 required. The annual financial audit with management recommen-
94 dations and the annual financial statements of the regional retire-
95 ment system shall conform to generally accepted accounting
96 principles and shall be timely filed by the comptroller with the
97 clerk of each governmental member unit. The comptroller shall
98 also be responsible to maintain the accounting of the various fund
99 account balances of the regional retirement system and no monies
100 may be paid by the treasurer-custodian except those itemized on a
101 warrant to be executed by the comptroller which must also be
102 approved by a majority of the members of the regional retirement
103 board. The comptroller may disallow any retirement benefits or
104 administrative expenses that are fraudulent, excessive or unlawful;
105 and any retirement benefits or administrative expenses so disal-
106 lowed shall not be paid by the treasurer-custodian.

107 (4) The treasurer-custodian and the comptroller must also rec-
108 oncile the total of all cash and investments in the custody of the
109 treasurer-custodian with the fund balances maintained by the
110 comptroller on a monthly basis. All other duties and responsibili-
111 ties of the regional retirement system shall be carried out by the
112 executive director.

113 (5) The executive director, treasurer-custodian and comptroller
114 of a regional retirement system shall be appointed subject to the

115 terms of an employment contract, but such an employment con-
116 tract may be cancelled and the executive director, treasurer-custo-
117 dian or comptroller may be removed by the retirement board at
118 any time upon reasonable cause.

119 Employment contracts shall be approved by the regional retire-
120 ment board and any salaries and benefits paid pursuant to such
121 employment contracts shall be paid out of the expense fund of the
122 retirement system. In no case may such an employment contract
123 exceed a term of three years. The executive director, treasurer-
124 custodian and comptroller shall be members of the retirement
125 system for which they serve, but shall not be eligible to be a
126 member or candidate for election to the retirement board.

127 (6) Upon the vacancy of the offices of executive director, trea-
128 surer-custodian, or comptroller of the regional retirement system,
129 an interim appointment may be made until a permanent appoint-
130 ment is made; and such an interim appointee shall have the same
131 powers and be subject to the same duties as if that person were the
132 permanent appointee, during the time of such an interim appoint-
133 ment. An interim appointee shall be referred to as acting executive
134 director, acting treasurer-custodian or acting comptroller and that
135 person's salary and benefits shall be paid out of the expense fund
136 in accordance with the direction of the regional retirement board.

137 (d) The executive director may employ clerical and other assis-
138 tants as may be required to transact the business of the retirement
139 system. All permanent employees employed pursuant to this para-
140 graph shall be members of the retirement system, but shall not be
141 eligible to be a member or candidate for election to the retirement
142 board.

143 (e) A regional retirement board shall be authorized to purchase
144 or lease property, facilities and equipment and employ any such
145 personnel necessary for the proper administration and transaction
146 of the business of the retirement system. If a regional retirement
147 system purchases real estate for its office space and the amount of
148 space available in any such building as may exist on the real
149 estate exceeds the current office space needs of the regional retire-
150 ment system; the extra space may be leased at market rates and
151 the rent collected shall be deposited into the investment income
152 account and shall be treated as investment income. The regional
153 retirement system may only purchase real estate that is suitable

154 for its office space, and may only purchase real estate that it can
155 reasonably expect to fully occupy at some point in the future. The
156 executive director shall be responsible for purchasing any liability
157 insurance to protect the retirement system and its assets from any
158 potential claims that may result from ownership of such real estate
159 and the premiums for any such insurance shall be paid out of the
160 expense fund.

161 (f) The board of the regional retirement system and the trea-
162 surer-custodian thereof shall respectively be and act as the board
163 and treasurer-custodian of such system with respect to the
164 employees of any town or district who become members of such
165 system as provided for in paragraphs (b) or (c) of subdivision (3),
166 or paragraph (b) of subdivision (4) of section 28 of chapter 32, or
167 who have become members thereof under corresponding provi-
168 sions of earlier laws. The treasurer or other disbursing officer of
169 any such town or district, as the case may be, shall act as a liaison
170 officer between the employees thereof and the board of such
171 system.

172 (g) There shall be a regional retirement board advisory council
173 consisting of either one or two representatives from each govern-
174 mental member unit as follows: The first representative shall be
175 the treasurer, whether elected or appointed, of each city, town,
176 unit or district that belongs to the regional retirement system. Any
177 member unit that has in excess of 100 participants who are either
178 active or retired shall choose a second representative who shall be
179 appointed by the chief executive authority of the member unit as
180 follows: in a city/town having a city/town manager form of gov-
181 ernment, by the city/town manager, otherwise by the Mayor or
182 Board of Selectmen, as the case may be; in school districts, by the
183 Superintendent; in other member units, by the board or committee
184 that serves as the chief appointing authority for that member unit.
185 The members of said advisory council shall elect a chairman from
186 among the members who shall be selected for a term of one year.
187 The chairman of the advisory council shall preside, and be respon-
188 sible for ensuring orderly proceedings, during the meetings of the
189 advisory council. Said council shall meet at the call of the retire-
190 ment board but in no event less than twice in each year, which
191 meetings shall take place on April 1 and October 1 of each year
192 unless the retirement board chooses a different meeting date that

193 falls within 30 days of April 1 and October 1. Said council shall
194 also meet anytime at the call of either the chairman or the finan-
195 cial oversight committee or within 30 days of the submission of a
196 petition from at least 15 members of the advisory council. Said
197 council shall supervise and certify the procedures involved in the
198 election of the elected members of the retirement board, as pro-
199 vided in paragraphs (b) and (i).

200 The regional retirement board advisory council, at a meeting
201 called specifically for that purpose, shall elect three of its mem-
202 bers as members of the regional retirement board, as provided in
203 paragraph (b) (1).

204 (1) There shall be a permanent standing financial oversight
205 committee of the advisory council. The financial oversight com-
206 mittee shall consist of nine members of the advisory council. The
207 chairman and first member of the financial oversight committee
208 shall be the chairman of the advisory council. The remaining eight
209 members shall be chosen by the advisory council for staggered
210 three year terms.

211 (2) Before any estimate of administrative expenses and costs of
212 the regional retirement system may be presented to the advisory
213 council for approval, the estimate must first be submitted to the
214 financial oversight committee. The financial oversight committee
215 shall review the estimate of administrative expenses and costs and
216 shall make recommendations to the advisory council on approval
217 or denial of any such estimates.

218 (3) Before the actuary prepares the final actuarial valuation
219 report, the actuary shall notify the chairman of the financial over-
220 sight committee of his/her assumptions relative to investment
221 return, rates of regular compensation and any other variable fac-
222 tors that will have an impact upon the calculation of pension lia-
223 bilities of member units. The financial oversight committee shall
224 review any such assumptions and may make non-binding recom-
225 mendations to the retirement board and the actuary with respect to
226 the use of such assumptions.

227 (4) On a quarterly basis, the treasurer-custodian shall provide
228 investment performance reports to the chairman of the financial
229 oversight committee. The financial oversight committee shall
230 review and may make non-binding recommendations to the retire-
231 ment board relative to investment policies and procedures.

232 (5) The advisory council may enact rules of procedure that will
233 govern the term of the chairman, the conduct of the proceedings
234 of the advisory council, the appointment of committees, and any
235 other activities of the advisory council.

236 (h) The fiscal year of the regional retirement system shall run
237 from July 1st through June 30th of each year. An estimate of
238 administrative expenses and costs of the regional retirement
239 system for each fiscal year shall be approved by both the regional
240 retirement board and the regional retirement board advisory
241 council on or before the October 15th preceding the beginning of
242 each fiscal year. No amounts may be charged from the investment
243 income account and credited into the expense fund and no funds
244 may be paid from the expense fund except in accordance with the
245 approved estimate of administrative expenses and costs or in
246 accordance with any supplemental estimates of administrative
247 expenses and costs. Supplemental estimates of administrative
248 expenses and costs for any year may only be approved by the
249 regional retirement board and the regional retirement board advisory
250 council in the same manner as the original estimate. At the
251 end of each fiscal year any excess in the expense fund, once all
252 administrative expenses relative to that fiscal year have been paid,
253 not including any encumbrances, shall be transferred back into the
254 investment income account. The total balance in the investment
255 income account, after any excess from the expense fund has been
256 turned back, shall be transferred into the pension reserve fund and
257 shall be used to offset the accrued pension liability of each
258 member unit proportionally according to the percentage of assets
259 attributable to each member unit when compared to the total of
260 assets attributable to all member units combined. If the investment
261 income account is in deficit at the end of the fiscal year, the
262 amount of the deficit shall be transferred into the investment
263 income account from the pension reserve fund and the charge
264 shall be applied to the accrued pension liability of each member
265 unit proportionally according to the percentage of assets attribut-
266 able to each member unit when compared to the total of assets
267 attributable to all member units combined.

268 (i) The regional retirement board advisory council, which shall
269 serve as the election board, shall supervise the election of the
270 elected members of the retirement board. The council shall make

271 available nomination papers to any member in or retired from
272 service so requesting and shall require that such nomination
273 papers be signed by the candidate and be returned to the office of
274 the retirement board for safekeeping until the election board shall
275 meet. The chairman of the council shall give a duplicate receipt
276 for such nomination papers to each candidate. Completed nomina-
277 tion papers shall contain the signatures and addresses of at least
278 five active or retired members of said retirement system. The elec-
279 tion board shall determine whether each candidate has filed nomi-
280 nation papers containing the requisite signatures and addresses. If,
281 after investigation, the election board determines that a candidate
282 has filed nomination papers containing less than five signatures as
283 required, the election board shall declare said nomination papers
284 invalid and shall notify the candidate of such determination. If,
285 after investigation, the election board determines that only one
286 candidate has filed the requisite number of signatures, the election
287 board shall declare said candidate to be the elected member of the
288 regional retirement board. If, after investigation, the election
289 board determines that more than one candidate has obtained the
290 requisite number of valid signatures, the election board shall
291 notify said candidates of such determination and shall immedi-
292 ately prepare election ballots, and set the date for an election to be
293 held within 40 days. The election board shall mail ballots to all
294 members of the retirement system whether active or retired. The
295 election board shall instruct each member to place an appropriate
296 marking on the face of the printed ballot envelope next to the
297 name of one candidate, insert the ballot into a ballot envelope, and
298 the ballot envelope into the pre-stamped envelope, seal said pre-
299 stamped envelope and mail said envelope to the election board in
300 care of the county retirement board, within 20 days after they
301 were mailed. Any envelope postmarked later than 20 days after
302 such mailing shall not be used to determine the elected member.
303 The election board shall notify each candidate of the time and
304 location of the tabulation of the ballots and shall permit all such
305 candidates to be present at said tabulation. At the specified time
306 for tabulation, the election board shall assemble all envelopes and
307 inspect said envelopes. Any envelope which has been opened
308 prior to said date, or which has not been signed on the rear by the
309 appropriate addressee, shall be invalidated and shall not be used to

310 determine the elected member. The election board shall, assemble
311 all properly signed, unopened envelopes and shall open each
312 envelope and separate the enclosed ballot from said envelope. The
313 election board shall assemble all ballots and shall tabulate the vote
314 for each candidate. Any ballot which contains a marking for more
315 than the number of vacancies shall be declared invalid. The elec-
316 tion board shall notify each candidate in writing of the results of
317 said election. All envelopes and ballots received by said election
318 board, including those determined to be invalid, shall be preserved
319 by the election board for two years. The costs incurred by the
320 election board in administering the election shall be paid from the
321 regional retirement system expense fund.

322 (j) The group insurance commission shall make available to
323 board members and employees of a regional retirement board
324 health, life and disability benefits, and said board members and
325 employees shall be eligible to participate in all benefits adminis-
326 tered by the group insurance commission. The costs thereof,
327 including any administrative costs incurred by the group insurance
328 commission shall be borne by said employees and board members
329 and the regional retirement system. Any benefits provided, prior
330 to the abolition of county government, to employees and retirees
331 of a regional retirement system that are not available through the
332 group insurance commission may be provided to such employees
333 and retirees through the regional retirement system; provided,
334 however, that said system is fully reimbursed, in the case of
335 retirees, for the cost of such benefits, and, in the case of
336 employees, is reimbursed in a percentage equal to that of the per-
337 centage paid by state employees for similar benefits.

338 (k) Any employer shall be required to provide a board member
339 under its employ with all necessary leave required for service to
340 such board. A board member who is an active member of a con-
341 tributory retirement system shall receive creditable service, con-
342 sistent with the provisions of paragraph (a) of subdivision (1) of
343 section 4 of chapter 32, for such periods the member is so serving.

344 (l) The abolished county's prior retirement board and prior
345 retirement board advisory council shall continue to serve until
346 such time as the members of the new retirement board and the
347 new retirement board advisory council pursuant to this section
348 have been duly elected, selected or appointed, as the case may be.

349 (m) The actuary, for purposes of determining the allocation of
350 assessments to member units, shall determine the total assets and
351 liabilities in the regional retirement system as they are attributable
352 to each individual member unit. On or before December 15 of
353 each year, the actuary shall determine the accrued pension liability
354 that is attributable to each member unit and shall also determine
355 the assets attributable to each member unit that offset the accrued
356 pension liability as of the previous January 1st. Each member unit
357 shall ultimately be responsible to deposit sufficient assets into the
358 pension reserve fund to offset the portion of its accrued pension
359 liability that is not fully offset by assets attributable to that
360 member unit; and, this may be done either by the issuance of pen-
361 sion obligation bonds or according to a funding schedule adopted
362 by the member unit.

363 (n) Any member unit may issue pension obligation bonds, the
364 proceeds of which shall offset all or a portion of the member
365 unit's accrued pension liability, in accordance with chapter 44 and
366 chapter 44A of the general laws and such pension obligation
367 bonds shall be considered a purpose for borrowing money outside
368 the debt limit in accordance with section 8 of chapter 44 and such
369 debt shall be payable within the following time periods: if the
370 member unit's pension liability is more than 95% offset by assets,
371 five years; if the member unit's liability is less than 95% offset
372 but more than 85% offset, ten years; if the member unit's liability
373 is less than 85% offset but more than 75% offset, twenty years; if
374 the member unit's liability is less than 75% offset, thirty years. All
375 proceeds received on the issuance of pension obligation bonds,
376 including any premium received or discount charged on the sale of
377 such bonds, shall be immediately deposited into the pension
378 reserve fund of the regional retirement system and shall offset the
379 pension liability attributable that member unit.

380 (o) The principal and interest payments on pension obligation
381 bonds issued by any member unit may be excluded from the prop-
382 erty tax levy limitations as set forth in sections 21C and 21D of
383 chapter 59 of the general laws; provided that such exclusion is
384 approved in accordance with the procedures set forth in said sec-
385 tions 21C and 21D of said chapter 59.

386 (p) Any member unit that does not issue pension obligation
387 bonds, or issues pension obligation bonds but the proceeds of

388 those bonds are not sufficient to fully offset that member unit's
389 pension liability, must adopt a funding schedule within the guide-
390 lines set forth in paragraph (r) that shall be filed with the regional
391 retirement board on or before the first day of that member unit's
392 next fiscal year. The regional retirement board shall then adopt an
393 annual assessment to each member unit in accordance with the
394 funding schedules so adopted. The regional retirement board shall,
395 within 30 days of the beginning of a member unit's fiscal year,
396 adopt a funding schedule, within the guidelines set forth in para-
397 graph (r), for any member unit that either does not adopt a funding
398 schedule on or before the first day of that member unit's next
399 fiscal year or adopts a funding schedule that does not comply with
400 the guidelines as set forth in paragraph (r), unless the member unit
401 subsequently adopts a funding schedule that complies with the
402 guidelines of paragraph (r) within 90 days of the first day of its
403 fiscal year in which case the retirement board shall rescind its pre-
404 viously adopted funding schedule.

405 (q) Funding schedules that are adopted by member units shall
406 be adopted as follows: in cities or in towns with a town council,
407 by the council; in other towns, by the board of selectmen; in
408 regional school districts, by the school committee; in other dis-
409 tricts and authorities, by the board or committee that has executive
410 authority over such district or authority. The funding schedule for
411 the regional retirement system's employees shall be adopted by
412 the regional retirement board and the costs shall be apportioned to
413 the member units according to the proportion of the assets attrib-
414 utable to that member unit in the retirement system when com-
415 pared to the total of all assets in the retirement system.

416 (r) Funding schedules shall be adopted within the following
417 guidelines: if the member unit's accrued pension liability is more
418 than 95% offset by assets, that member unit's accrued pension lia-
419 bility must be fully offset within five years; if the member unit's
420 liability is less than 95% offset but more than 85% offset, ten
421 years; if the member unit's liability is less than 85% offset but
422 more than 75% offset, twenty years; if the member unit's liability
423 is less than 75% offset, twenty-five years. All funding schedules
424 must provide for annual payments that will fully offset the
425 accrued pension liability, and in no case may a funding schedule
426 provide that an accrued pension liability will extend beyond the

427 year 2028. The regional retirement board must subsequently deter-
428 mine that a member unit's funding schedule complies with this
429 and all other applicable provisions of law and good practice
430 before the regional retirement board may accept such a funding
431 schedule. If the regional retirement board determines that a
432 member unit's funding schedule does not meet the requirements of
433 the law or of good practice, the member unit may appeal the
434 regional retirement board's determination to the public employees'
435 retirement administration commission whose determination shall
436 be final, or the member unit may submit a new funding schedule.

437 (s) The payments toward an accrued pension liability funding
438 schedule for any member unit may be excluded from property tax
439 levy limitations as if these payments were capital outlay expendi-
440 tures as set forth in sections 21C and 21D of chapter 59 of the
441 general laws; provided that such exclusion is approved in accor-
442 dance with the procedures set forth in said sections 21C and 21D
443 of said chapter 59.

444 (t) When the actuary periodically revises the amount of each
445 member unit's accrued pension liability, as is required by the pro-
446 visions of chapter 32, each member unit must either issue new
447 pension obligation bonds or adopt a new funding schedule by the
448 first day of that member unit's next fiscal year in accordance with
449 paragraphs (n), (o), (p), (q), (r) and (s).

450 This chapter shall take effect immediately upon passage.